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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,695	11/25/2003	Marty Kessler	Kessler 426-7	3046

23294 7590 11/26/2004
JONES, TULLAR & COOPER, P.C.
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ARLINGTON, VA 22202

EXAMINER

CHENEVERT, PAUL A

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 11/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/720,695	Applicant(s) KESSLER, MARTY	
	Examiner Paul A. Chenevert	Art Unit 3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Canada on 26NOV02. It is noted, however, that applicant has not filed a certified copy of the Canadian application as required by 35 U.S.C. 119(b).

Drawings

2. The drawings are objected to because of the following minor informalities:
- a. Reference number 50 (mounting tube) should be included in Figure 1.
 - b. The dimension lines and sizing arrows need to be removed from Figures 2A-C.
 - c. The lead line for reference number 16d' (middle finger) in Figure 6 section D is missing. It is suggested that the lead line should be drawn one-half inch to the left of the reference number thus touching the finger standing upright.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement

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Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities:
 - a. Page 6, line 14, “centre shaft 14” should be changed to “centre shaft 18”.
 - b. Page 9, line 7, “ 12d` ” should be changed to “ 12` ” or else the drawings should be changed. As understood, in Figure 6 section D, “16d” designates a finger directed to the right, “ 16d` ” designates a finger directed upright, and “ 16d` ” designates a finger directed to the left. “ 12d` ” currently does not appear in the drawings and “ 12d` ” currently does not appear in the specification.

Appropriate correction is required.

Claim Objections

5. Claims 17-20 are objected to because of the following informalities: “and/or” in claims 17 & 18 should be changed to either “and” or “or”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 20 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

a. It is unclear how the fixed spacers (98 in Figure 8A or 138 in Figure 9A) are adjacent the rotatable finger assembly. The rotatable finger assemblies are described and shown as being opposite (10a, 10b in Figure 8A) or above (124 in Figure 9A) the fixed supports. It is thought that “adjacent” should be changed to “near”, “cooperating with”, or some other descriptive term.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 2, 4, 5, 13, 18, & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakanishi et al.

Nakanishi et al. disclose a rotatable finger assembly comprising: two independently rotatable fingers (4) mounted about a common axis (6), each finger being rotatable between a

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level (1st) position and an upright (2nd) position. In regards to claim 2, the fingers are placed on top of an article (1) before another article (1) is placed then on top of the finger, as can best be seen in Figure 2. In regards to claim 4, the fingers in the 1st position are all angled the same to a horizontal planar level. In regards to claim 5, the assembly employs two forms of stop means to limit the rotation of the fingers; in the 1st position the floor stops the bottom group of fingers and the braces (18) stop the elevated groups of fingers; and in the 2nd position the braces (19) stop the highest group of fingers and the lower groups of fingers are stopped by the bottom surface of the next higher group of fingers. In regards to claim 13, all fingers in a group on a specific level have the same shape. In regards to claims 18 & 19, the rotatable finger assemblies are employed on a shipping package and the fingers are positioned horizontally by group along an inner vertical wall.

Allowable Subject Matter

10. Claims 3, 6-12, 14-17, & 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter: the prior art does not show or make obvious Applicant's profile-conforming finger (claims 3 & 15), common central shaft (claim 6), slotted finger (claim 14), joined fingers (claim 16), or fixed spacers (claim 20).

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Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Chenevert whose telephone number is 703-305-0837. The examiner can normally be reached on Mon-Fri (8:30-5:00).

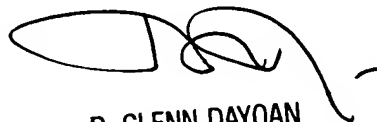
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul A. Chenevert
Examiner
Art Unit 3612

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17NOV04


D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600 11/23/04